

## EXHIBIT 295

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE NORTHERN DISTRICT OF OHIO  
3                   EASTERN DIVISION

4                   - - -

5  
6           IN RE:   NATIONAL                                 :     MDL NO. 2804  
7           PRESCRIPTION OPIATE                         :  
8           LITIGATION                                    :  
9   :  
10    :

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11           THIS DOCUMENT RELATES TO                 :    CASE NO.  
12           ALL CASES                                   :    1:17-MD-2804  
13   :  
14    :    Hon. Dan A.  
15    :    Polster

16                   - - -

17                   February 8, 2019

18                   - - -

19                   HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER  
20                   CONFIDENTIALITY REVIEW

21  
22                   Continued videotaped deposition  
23                   of STEPHEN MAYS taken pursuant to notice, was  
24                   held at the law offices of Reed Smith LLP, Three  
25                   Logan Square, 1717 Arch Street, Suite 3100,  
26                   Philadelphia, Pennsylvania, beginning at 11:12  
27                   a.m., on the above date, before Ann Marie  
28                   Mitchell, a Federally Approved Certified Realtime  
29                   Reporter, Registered Diplomate Reporter,  
30                   Registered Merit Reporter and Notary Public.

31                   - - -

32                   GOLKOW LITIGATION SERVICES  
33                   877.370.3377 ph | 917.591.5672 fax  
34                   deps@golkow.com

Page 2	Page 4
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Page 7	Page 9
<p>1</p> <p>2 JOSH GAY</p> <p>3 Levin Papantonio Thomas Mitchell</p> <p>4 Rafferty Proctor P.A.</p> <p>5</p> <p>6 EMMA KABOLI</p> <p>7 Baron &amp; Budd, P.C.</p> <p>8</p> <p>9 ALEX SHERMAN</p> <p>10 - - -</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>1 - - -</p> <p>2 DEPOSITION SUPPORT INDEX</p> <p>3 - - -</p> <p>4</p> <p>5 Direction to Witness Not to Answer</p> <p>6</p> <p>7 Page Line</p> <p>8</p> <p>9 Request for Production of Documents</p> <p>10 Page Line</p> <p>11</p> <p>12</p> <p>13</p> <p>14 Stipulations</p> <p>15</p> <p>16 Page Line</p> <p>17</p> <p>18</p> <p>19 Question Marked</p> <p>20</p> <p>21 Page Line</p> <p>22</p> <p>23</p> <p>24</p>

<p style="text-align: right;">Page 10</p> <p>1 THE VIDEOGRAPHER: We're now on 2 the record. My name is David Lane, 3 videographer for Golkow Litigation 4 Services. Today's date is 11:12 a.m. 5 This deposition is taking place in 6 Philadelphia, Pennsylvania in the matter 7 of National Prescription Opiate 8 Litigation MDL. 9 Our deponent today is Steve Mays. 10 All counsel will be noted on the 11 stenographic record. 12 The court reporter is Ann Marie 13 Mitchell, who will now swear in our 14 witness. 15 - - - 16 STEPHEN MAYS, after having been 17 duly sworn, was examined and testified as 18 follows: 19 - - - 20 THE VIDEOGRAPHER: Please begin. 21 MR. PIFKO: Could we get everyone 22 to state their appearance, or did people 23 already do that? 24 Mark Pifko from Baron &amp; Budd on</p>	<p style="text-align: right;">Page 12</p> <p>1 Arnold &amp; Porter on behalf of Endo and 2 Par. 3 MR. FARRELL: Paul Farrell on 4 behalf of the PEC. 5 COURT REPORTER: Counsel? 6 MS. McCLURE: Paul? Hey, Paul, 7 you're going to have to restate that. I 8 could hear your name vaguely, but the 9 court reporter and the videographer could 10 not hear you. 11 MR. FARRELL: This is Paul 12 Farrell, Jr., for the PEC. And I will be 13 on for portions of today but not the 14 entire duration. 15 MR. PIFKO: All right. 16 - - - 17 EXAMINATION 18 - - - 19 BY MR. PIFKO: 20 Q. Ready to begin? 21 A. Yes, sir. 22 Q. You understand that you're under 23 oath. 24</p>
<p style="text-align: right;">Page 11</p> <p>1 behalf of the plaintiffs and the PEC. 2 MR. POWERS: Will Powers, also 3 from Baron &amp; Budd. 4 MS. McCLURE: Shannon McClure on 5 behalf of ABDC. 6 MR. MELTON: Jeffrey Melton on 7 behalf of ABDC. 8 MR. CASALENUOVO: Chris 9 Casalenuovo with ABDC. 10 MS. PIERCE: Abigail Pierce, 11 Reed. 12 MS. MONAGHAN: Meghan Monaghan 13 for McKesson. 14 MS. ADAMS: Kate Adams for 15 Cardinal Health. 16 MR. HOLLINGSWORTH: Adam 17 Hollingsworth on behalf of Walmart. 18 THE VIDEOGRAPHER: Counsel on the 19 phone? 20 MS. HANNAM: This is Monique 21 Hannam on behalf of HD Smith. 22 MR. RILEY: Luke Riley on behalf 23 of Ropes &amp; Gray. 24 MR. HOUSTON: Zeno Houston from</p>	<p style="text-align: right;">Page 13</p> <p>1 A. Yes, sir. 2 Q. Correct? 3 Okay. And that means that you 4 are under penalty of perjury. And if you are 5 intentionally dishonest or misleading, that you 6 could be subject to penalties from the court. 7 Do you understand that? 8 A. I understand. 9 Q. Okay. Is there any reason why 10 you're unable to give truthful and accurate 11 testimony today? 12 A. No. 13 Q. Are you undergoing any medical 14 treatment or taking any medications that would 15 impact your ability to tell the truth? 16 A. No. 17 Q. Are you undergoing any treatment 18 or taking any medication that would impact your 19 memory? 20 A. No. 21 Q. Is there any reason why this 22 deposition shouldn't go forward, as far as you 23 know? 24 A. As far as I know.</p>

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1 Q. Okay. So you were deposed a few  
2 months ago or so in this case.  
3 Do you recall?  
4 A. I do.  
5 Q. Okay. One of the things we  
6 discussed in your prior deposition was your work  
7 history with your current employer.  
8 Do you recall that?  
9 A. Yes.  
10 Q. During your last deposition, we  
11 discussed how one of the things that you did was  
12 you established the Orlando facility for the  
13 company.  
14 Do you recall that discussion?  
15 MS. McCLURE: Objection to form.  
16 THE WITNESS: I didn't establish  
17 it alone. I was the operations manager.  
18 BY MR. PIFKO:  
19 Q. Okay.  
20 A. When it was opened, yes.  
21 Q. But you were one of the people  
22 who was responsible for establishing the Orlando  
23 facility. Correct?  
24 A. That's right.

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1 MS. McCLURE: Objection to form.  
2 BY MR. PIFKO:  
3 Q. You moved from, I believe you  
4 were in Kentucky or Tennessee?  
5 A. Tennessee.  
6 Q. Okay. Tennessee. You moved from  
7 there to Orlando in order to help establish the  
8 Orlando facility. Correct?  
9 A. That's correct.  
10 Q. And then you -- what was your  
11 first role at the Orlando facility?  
12 MS. McCLURE: Objection, asked  
13 and answered.  
14 THE WITNESS: I was the  
15 operations manager.  
16 BY MR. PIFKO:  
17 Q. And did you have that role the  
18 whole time that you were there?  
19 A. Not the whole time, no.  
20 Q. What was your most senior role  
21 when you left the Orlando facility?  
22 MS. McCLURE: Objection, asked  
23 and answered, form.  
24 THE WITNESS: Operations manager

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1 was the most senior role.  
2 BY MR. PIFKO:  
3 Q. And then later you became an  
4 auditor. Correct?  
5 A. Yes.  
6 Q. And part of your responsibilities  
7 involved auditing the facilities, including the  
8 Orlando facility. Correct?  
9 A. Originally not the Orlando  
10 facility.  
11 Q. But ultimately you did have  
12 responsibilities that included auditing the  
13 Orlando facility. Correct?  
14 A. I believe --  
15 MS. McCLURE: Objection, asked  
16 and answered.  
17 THE WITNESS: I believe that was  
18 in my area of responsibility, yes.  
19 BY MR. PIFKO:  
20 Q. Are you familiar with the order  
21 to show cause that was issued concerning the  
22 Orlando facility?  
23 A. Yes.  
24 MS. McCLURE: Objection, asked

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1 and answered.  
2 Are we doing a continuation of  
3 the exhibit numbering?  
4 MR. PIFKO: We're calling it  
5 Volume 2.  
6 MS. McCLURE: Thank you.  
7 - - -  
8 (Deposition Exhibit No. Mays  
9 V2-1, Order to Show Cause and Immediate  
10 Suspension of Registration, Bates stamped  
11 ABDCMDL00269383 through ABDCMDL00269387,  
12 was marked for identification.)  
13 - - -  
14 BY MR. PIFKO:  
15 Q. I'm handing you what's marked as  
16 Exhibit 1. Volume 2, Exhibit 1.  
17 For the record, it's a letter  
18 from the DEA dated April 19, 2007, Bates labeled  
19 ABDCMDL00269383 through 387.  
20 Have you seen this exhibit  
21 before?  
22 MS. McCLURE: The document or the  
23 exhibit?  
24 THE WITNESS: I've seen this

<p style="text-align: right;">Page 18</p> <p>1 document before, yes.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. Can you tell me what this is?</p> <p>4 A. It is an order to show cause and</p> <p>5 immediate suspension of the Orlando registration.</p> <p>6 Q. When was the last time you saw</p> <p>7 this document?</p> <p>8 A. I can't recall.</p> <p>9 Q. Is this something that you</p> <p>10 reviewed in preparing for your deposition?</p> <p>11 A. No.</p> <p>12 Q. Okay. Do you believe you saw</p> <p>13 this on or around the time it was issued in April</p> <p>14 of 2007?</p> <p>15 MS. McCLURE: Objection to form.</p> <p>16 THE WITNESS: Sometime after the</p> <p>17 suspension. I didn't see it immediately.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. Okay. But sometime on or</p> <p>20 around -- it was -- after it was issued, it was</p> <p>21 provided to you. Correct?</p> <p>22 A. That's correct.</p> <p>23 Q. Who would have provided it to</p> <p>24 you?</p>	<p style="text-align: right;">Page 20</p> <p>1 order to show cause?</p> <p>2 MS. McCLURE: Objection to form.</p> <p>3 THE WITNESS: I'm not sure what</p> <p>4 that -- I'm not sure what you mean by</p> <p>5 changes operationally.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. Well, let's go through and see --</p> <p>8 let's look at Exhibit 1 and see what the</p> <p>9 Department of Justice said to AmerisourceBergen</p> <p>10 in this letter.</p> <p>11 It said, "Respondent" -- you see</p> <p>12 on the first page here, there's a number of</p> <p>13 paragraphs, starting about halfway down.</p> <p>14 It says, "Respondent has failed</p> <p>15 to maintain effective controls against diversion</p> <p>16 of particular controlled substances into other</p> <p>17 than legitimate medical, scientific and</p> <p>18 industrial channels, in violation of 21 U.S.C.</p> <p>19 Sections 823(b)(1) and (e)(1)."</p> <p>20 Do you see that?</p> <p>21 A. I do.</p> <p>22 Q. Did I read that correctly?</p> <p>23 A. I believe you did.</p> <p>24 Q. And then it says, "From January</p>
<p style="text-align: right;">Page 19</p> <p>1 MS. McCLURE: Objection to form.</p> <p>2 THE WITNESS: I don't recall.</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. Were you part of discussions</p> <p>5 about what was going to be done to respond to</p> <p>6 this order to show cause?</p> <p>7 MS. McCLURE: Objection to form.</p> <p>8 THE WITNESS: Internally or with</p> <p>9 DEA?</p> <p>10 BY MR. PIFKO:</p> <p>11 Q. Internally.</p> <p>12 A. Internally. Yes. I was part of</p> <p>13 some discussions, yes.</p> <p>14 Q. Who did you discuss this order to</p> <p>15 show cause with?</p> <p>16 A. My boss, Chris Zimmerman.</p> <p>17 Q. Anyone else?</p> <p>18 A. Not that I remember.</p> <p>19 Q. What was the nature of your</p> <p>20 discussion with Mr. Zimmerman?</p> <p>21 A. I don't recall exactly.</p> <p>22 Q. Did you discuss that you were</p> <p>23 going to make any changes to the operations at</p> <p>24 the Orlando facility as a result of seeing this</p>	<p style="text-align: right;">Page 21</p> <p>1 1, 2006, through January 31, 2007, Respondent</p> <p>2 distributed over 3.8 million dosage units of</p> <p>3 combination hydrocodone products to customers</p> <p>4 that it knew or should have known were diverting</p> <p>5 the hydrocodone into other than legitimate</p> <p>6 medical, scientific and industrial channels."</p> <p>7 Do you see that?</p> <p>8 A. Yes, I do.</p> <p>9 Q. Did I read that correctly?</p> <p>10 A. I think you did.</p> <p>11 Q. Did you understand at the time</p> <p>12 that that was a concern raised by the Department</p> <p>13 of Justice with respect to AmerisourceBergen?</p> <p>14 A. Yes, I understand that.</p> <p>15 MS. McCLURE: Objection to the</p> <p>16 form.</p> <p>17 BY MR. PIFKO:</p> <p>18 Q. Did you have an understanding</p> <p>19 about what the specific basis was for that</p> <p>20 concern?</p> <p>21 MS. McCLURE: Objection to the</p> <p>22 form.</p> <p>23 THE WITNESS: Can you repeat that</p> <p>24 question again?</p>



<p style="text-align: right;">Page 22</p> <p>1 BY MR. PIFKO:</p> <p>2 Q. So it says here that</p> <p>3 AmerisourceBergen failed to maintain effective</p> <p>4 controls against diversion. And then it says</p> <p>5 that AmerisourceBergen distributed over</p> <p>6 3.8 million dosage units of combination</p> <p>7 hydrocodone products to customers that it knew or</p> <p>8 should have known were diverting them.</p> <p>9 Did I read that -- summarize it</p> <p>10 correctly?</p> <p>11 A. I just asked you to repeat the</p> <p>12 question.</p> <p>13 Q. Yeah. Did I summarize that</p> <p>14 correctly?</p> <p>15 A. I think you did.</p> <p>16 Q. Okay. So my question is, do you</p> <p>17 have an understanding about the specific basis of</p> <p>18 why the Department of Justice said that?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. What is your</p> <p>21 understanding?</p> <p>22 A. That the Department of Justice</p> <p>23 felt like we were shipping a large quantity to --</p> <p>24 of hydrocodone combination products to customers</p>	<p style="text-align: right;">Page 24</p> <p>1 Justice they were wrong. Correct?</p> <p>2 MS. McCCLURE: Objection to form.</p> <p>3 THE WITNESS: I don't know.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. Sitting here today, you're not</p> <p>6 aware of anyone responding to the Department of</p> <p>7 Justice in connection with this and saying the</p> <p>8 sales figures you're providing in your letter are</p> <p>9 incorrect.</p> <p>10 Would you agree with that?</p> <p>11 MS. McCCLURE: Objection to form.</p> <p>12 THE WITNESS: Again, I don't know</p> <p>13 what was said.</p> <p>14 BY MR. PIFKO:</p> <p>15 Q. What was your title at this time?</p> <p>16 A. 2007, I would have -- I believe I</p> <p>17 was director of regulatory affairs.</p> <p>18 Q. Were the policies and procedures</p> <p>19 at the Orlando facility consistent with the</p> <p>20 company's policies around the country?</p> <p>21 MS. McCCLURE: Objection to form.</p> <p>22 THE WITNESS: Yes, they were.</p> <p>23 BY MR. PIFKO:</p> <p>24 Q. So with respect to diversion</p>
<p style="text-align: right;">Page 23</p> <p>1 in Florida, in their opinion.</p> <p>2 Q. Were you in fact shipping the</p> <p>3 quantities that they said you were shipping?</p> <p>4 A. I can't verify that to the</p> <p>5 number.</p> <p>6 Q. Do you recall ever --</p> <p>7 A. I'm sure -- go ahead.</p> <p>8 Q. Do you recall ever disputing</p> <p>9 that the numbers that they were providing were</p> <p>10 incorrect?</p> <p>11 MS. McCCLURE: Objection to form.</p> <p>12 THE WITNESS: I don't recall that</p> <p>13 we disputed it, no.</p> <p>14 BY MR. PIFKO:</p> <p>15 Q. So to your recollection, you</p> <p>16 never told the Department of Justice their</p> <p>17 numbers were wrong. Agreed?</p> <p>18 MS. McCCLURE: Objection to form.</p> <p>19 THE WITNESS: I wasn't involved</p> <p>20 in the discussions with the Department of</p> <p>21 Justice.</p> <p>22 BY MR. PIFKO:</p> <p>23 Q. Okay. But to your knowledge, no</p> <p>24 one at AmerisourceBergen told the Department of</p>	<p style="text-align: right;">Page 25</p> <p>1 control, there was nothing different going on at</p> <p>2 the Orlando facility than there was at any other</p> <p>3 facility. Correct?</p> <p>4 MS. McCCLURE: Objection to form.</p> <p>5 THE WITNESS: Not that I know of.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. Do you know why you said earlier</p> <p>8 that the Department of Justice was concerned</p> <p>9 about the volume of these products, these</p> <p>10 hydrocodone combination products, that were being</p> <p>11 sold to customers? Agreed?</p> <p>12 MS. McCCLURE: Objection to form.</p> <p>13 THE WITNESS: I agree that</p> <p>14 they -- I would assume they were</p> <p>15 concerned or they wouldn't have suspended</p> <p>16 the registration.</p> <p>17 BY MR. PIFKO:</p> <p>18 Q. Why were they concerned about</p> <p>19 these volumes?</p> <p>20 MS. McCCLURE: Objection to form.</p> <p>21 THE WITNESS: I don't know.</p> <p>22 BY MR. PIFKO:</p> <p>23 Q. You have no idea why this was a</p> <p>24 concern?</p>



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1 MS. McCCLURE: Same objection.  
 2 THE WITNESS: I didn't have any  
 3 conversations with DEA about it, so I  
 4 don't know how they formed that opinion.  
 5 BY MR. PIFKO:  
 6 Q. Well, let's go to the second page  
 7 here.  
 8 Again, there's numbered  
 9 paragraphs. There's a paragraph number 5 at the  
 10 bottom there.  
 11 A. Okay.  
 12 Q. I'm going to read it to you, and  
 13 tell me if I read it correctly.  
 14 It says, "On August 10, 2005, DEA  
 15 personnel met with Steve Mays, Respondent's  
 16 Director of Regulatory Affairs, to inform him  
 17 about the common characteristics of pharmacies  
 18 that divert large amounts of controlled  
 19 substances by filling invalid prescriptions  
 20 obtained by customers using the Internet."  
 21 Do you see that?  
 22 A. Yes, I do.  
 23 Q. Did I read that correctly?  
 24 A. Yes, you did.

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1 Q. Do you recall having a meeting  
 2 with DEA personnel on August 10, 2005?  
 3 MS. McCCLURE: Objection, asked  
 4 and answered.  
 5 THE WITNESS: I don't recall if  
 6 that was the exact date, but I do recall  
 7 the meeting, yes.  
 8 BY MR. PIFKO:  
 9 Q. Does this refresh your  
 10 recollection about what your title was on or  
 11 around this time?  
 12 A. Yes.  
 13 Q. Okay. So when it says here that  
 14 you were director of regulatory affairs, is that  
 15 correct?  
 16 A. That's correct.  
 17 Q. Was that your title on or around  
 18 the time that this order to show cause was  
 19 issued?  
 20 MS. McCCLURE: Objection, asked  
 21 and answered.  
 22 THE WITNESS: I think so, yes.  
 23 BY MR. PIFKO:  
 24 Q. So you recall having this meeting

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1 with the DEA, correct --  
 2 A. Yes, I do.  
 3 Q. -- in 2005?  
 4 MS. McCCLURE: Objection, asked  
 5 and answered.  
 6 BY MR. PIFKO:  
 7 Q. Who was present at this meeting?  
 8 MS. McCCLURE: Objection, asked  
 9 and answered.  
 10 THE WITNESS: Myself and Mike  
 11 Mates (ph) from DEA. And then there was  
 12 an attorney there, counsel, that I don't  
 13 recall his name.  
 14 BY MR. PIFKO:  
 15 Q. Attorney for the Department of  
 16 Justice?  
 17 A. Yes. Or for DEA.  
 18 Q. Okay. Was there anyone else from  
 19 AmerisourceBergen who was present at this  
 20 meeting?  
 21 MS. McCCLURE: Objection, asked  
 22 and answered.  
 23 THE WITNESS: No, there wasn't.  
 24 BY MR. PIFKO:

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1 Q. Do you agree with the  
 2 characterization in this letter that at that  
 3 meeting they informed you about the common  
 4 characteristics of pharmacies that divert large  
 5 amounts of controlled substances by filling  
 6 invalid prescriptions obtained by customers using  
 7 the internet?  
 8 A. Yes.  
 9 Q. It says, going on to page 3, "DEA  
 10 personnel reminded Respondent that under 21  
 11 U.S.C. Sections 823(b)(1) and (e)(1), Respondent  
 12 was responsible to prevent the diversion of  
 13 controlled substances."  
 14 Do you see that?  
 15 A. I see that, yes.  
 16 Q. Did I read that correctly?  
 17 A. Yes, you did.  
 18 Q. Do you recall the DEA informing  
 19 you during that meeting that AmerisourceBergen  
 20 was responsible for preventing diversion of  
 21 controlled substances?  
 22 MS. McCCLURE: Objection to form.  
 23 THE WITNESS: I don't recall that  
 24 specifically.

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1 BY MR. PIFKO:  
2 Q. How about generally?  
3 MS. McCLURE: Same.  
4 THE WITNESS: Same.  
5 BY MR. PIFKO:  
6 Q. Do you recall during that meeting  
7 the DEA discussing AmerisourceBergen's  
8 responsibilities under the Controlled Substances  
9 Act?  
10 MS. McCLURE: Objection to form.  
11 THE WITNESS: Not specifically.  
12 BY MR. PIFKO:  
13 Q. How about generally, do you  
14 remember --  
15 A. That was 12 years ago.  
16 Q. Okay. How about generally, do  
17 you remember them discussing any expectations  
18 about what AmerisourceBergen was supposed to do  
19 with respect to complying with the Controlled  
20 Substances Act?  
21 MS. McCLURE: Objection to form.  
22 THE WITNESS: Not specifically.  
23 BY MR. PIFKO:  
24 Q. How about generally?

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1 MS. McCLURE: Same objection.  
2 THE WITNESS: Not -- not  
3 generally.  
4 BY MR. PIFKO:  
5 Q. So you don't have any  
6 recollection of whether you discussed the  
7 Controlled Substances Act at that meeting?  
8 MS. McCLURE: Objection, asked  
9 and answered.  
10 THE WITNESS: Not specifically.  
11 BY MR. PIFKO:  
12 Q. When you left that meeting, you  
13 reported back to Chris Zimmerman. Correct?  
14 MS. McCLURE: Objection, asked  
15 and answered.  
16 THE WITNESS: I don't recall that  
17 I did.  
18 BY MR. PIFKO:  
19 Q. Did you tell anybody about that  
20 meeting?  
21 MS. McCLURE: Same objection.  
22 THE WITNESS: Not -- I don't  
23 recall specifically. I'm sure I did, but  
24 I don't recall specifically.

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1 BY MR. PIFKO:  
2 Q. Who would you have told if you  
3 told someone?  
4 MS. McCLURE: Objection to form,  
5 calls for speculation.  
6 THE WITNESS: I would have to  
7 speculate. I don't know. I couldn't  
8 tell you for sure. Again, that was 12  
9 years ago.  
10 BY MR. PIFKO:  
11 Q. Okay. Next sentence here,  
12 "Notwithstanding the information provided to  
13 Respondent, after the August 10, 2005 meeting,  
14 Respondent sold over 5.2 million dosage units of  
15 hydrocodone to pharmacies that bore the  
16 characteristics that DEA described in the August  
17 10, 2005 meeting."  
18 Do you see that?  
19 A. Yes, I do.  
20 Q. Did I read that correctly?  
21 A. I believe you did.  
22 Q. Do you agree with that statement?  
23 MS. McCLURE: Objection to form.  
24 THE WITNESS: I can't verify the

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1 quantities.  
2 BY MR. PIFKO:  
3 Q. Other than verifying the  
4 quantities, do you agree with that statement?  
5 MS. McCLURE: Same objection.  
6 THE WITNESS: I can't really  
7 agree with it because I don't -- I don't  
8 know. I don't recall.  
9 BY MR. PIFKO:  
10 Q. You don't know either way?  
11 A. No.  
12 Q. Do you have any reason to dispute  
13 that AmerisourceBergen sold over 5.2 million  
14 dosage units of hydrocodone products to  
15 pharmacies that bore the characteristics  
16 discussed at this August 10, 2005 meeting?  
17 MS. McCLURE: Objection to form.  
18 THE WITNESS: I don't have any  
19 specific reason to dispute it, no.  
20 BY MR. PIFKO:  
21 Q. Do you remember the DEA  
22 discussing specific characteristics of  
23 hydrocodone products during the August 10, 2005  
24 meeting?

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1 MS. McCLURE: Objection to form,  
2 asked and answered.  
3 THE WITNESS: Characteristics of  
4 hydrocodone products? Not that I recall.  
5 BY MR. PIFKO:  
6 Q. How about do you recall DEA  
7 describing certain characteristics of sales to  
8 certain types of pharmacies?  
9 MS. McCLURE: Objection to form.  
10 THE WITNESS: I recall that, yes.  
11 BY MR. PIFKO:  
12 Q. What specifically do you recall  
13 about that?  
14 A. We discussed characteristics of  
15 internet pharmacy and what to look for.  
16 Q. What specifically were you  
17 supposed to look for with respect to internet  
18 pharmacies?  
19 MS. McCLURE: Objection to form.  
20 THE WITNESS: I don't recall  
21 everything. A few things. I can tell  
22 you what I do remember.  
23 BY MR. PIFKO:  
24 Q. Yeah, that's what I'm asking.

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1 A. Okay. I'm trying to recall.  
2 To look for like FedEx boxes or  
3 UPS boxes piled up in the pharmacy that would  
4 indicate they're shipping drugs other than just  
5 filling them at the store. Other than that, I  
6 can't remember the specifics.  
7 Q. When you came back to this  
8 meeting, did you instruct anyone at  
9 AmerisourceBergen to look for those type of  
10 characteristics?  
11 MS. McCLURE: Objection to form.  
12 THE WITNESS: I don't recall  
13 specifically.  
14 BY MR. PIFKO:  
15 Q. How about generally?  
16 MS. McCLURE: Same.  
17 THE WITNESS: I'm sure I did, I  
18 just don't recall.  
19 BY MR. PIFKO:  
20 Q. Who would you have told?  
21 MS. McCLURE: Objection to form.  
22 THE WITNESS: Don't recall  
23 specifically.  
24 BY MR. PIFKO:

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1 Q. Do you recall writing anything  
2 down to change AmerisourceBergen's procedures  
3 with respect to the due diligence it may perform  
4 with respect to customers after you had this  
5 meeting?  
6 MS. McCLURE: Objection to form.  
7 THE WITNESS: I don't recall  
8 writing things down.  
9 BY MR. PIFKO:  
10 Q. Do you recall changing any  
11 policies or procedures in order to look for the  
12 criteria that the Department of Justice  
13 identified to you during this meeting?  
14 MS. McCLURE: Objection to form,  
15 assumes facts not in evidence,  
16 foundation.  
17 THE WITNESS: I don't recall  
18 specifically.  
19 BY MR. PIFKO:  
20 Q. How about generally?  
21 MS. McCLURE: Same.  
22 THE WITNESS: Generally, I know  
23 we made some changes.  
24 BY MR. PIFKO:

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1 Q. What changes did you make?  
2 A. In -- we started conducting due  
3 diligence of customers --  
4 Q. What was --  
5 A. -- that had the parameters of our  
6 program --  
7 Q. Any other things --  
8 A. -- on the reports.  
9 Q. Anything else that you changed?  
10 A. I can't recall specifically.  
11 Q. What was the nature of the due  
12 diligence that you started performing at that  
13 time?  
14 A. We started using a questionnaire  
15 in the due diligence.  
16 Q. Was there a name for the  
17 questionnaire?  
18 A. A name of it? Can't recall  
19 specifically what the name was.  
20 Q. Who was supposed to fill out this  
21 questionnaire?  
22 MS. McCLURE: Objection to form.  
23 THE WITNESS: The  
24 AmerisourceBergen sales representative,

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1 along with the customer.  
 2 BY MR. PIFKO:  
 3 Q. And then what would you do with  
 4 that questionnaire?  
 5 MS. McCCLURE: Objection to form.  
 6 THE WITNESS: Well, we would  
 7 review that to see if they answered the  
 8 questions adequately to -- so we could  
 9 ensure that they weren't engaged in that  
 10 type of activity.  
 11 BY MR. PIFKO:  
 12 Q. Did you do anything else?  
 13 A. Not specifically. I don't know  
 14 what you're asking.  
 15 Q. What was the nature of your  
 16 review to determine if the customer adequately  
 17 provided information?  
 18 A. I'm not sure what you're asking.  
 19 Q. You said you would review the  
 20 question to see if the -- they were adequately  
 21 filled out so you could ensure that they weren't  
 22 engaged in that type of activity.  
 23 A. Right.  
 24 Q. So I'm asking, what was the

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1 nature of your review to conduct that analysis?  
 2 MS. McCCLURE: Form.  
 3 THE WITNESS: We would verify as  
 4 much of the information as they gave us.  
 5 BY MR. PIFKO:  
 6 Q. How would you verify it?  
 7 A. I can't remember specifically.  
 8 You know, if they gave us a website or something  
 9 like that, we would verify that website, to make  
 10 sure that they weren't filling prescriptions  
 11 based on the questionnaire.  
 12 Q. Did the questionnaire include any  
 13 photographs?  
 14 MS. McCCLURE: Objection, form.  
 15 THE WITNESS: I can't remember in  
 16 the beginning if we required photographs,  
 17 but I know at some point we required  
 18 the -- whoever went on site, typically it  
 19 was a salesperson, to take photographs  
 20 inside and outside of the building.  
 21 BY MR. PIFKO:  
 22 Q. Did you ask people to look for  
 23 FedEx packages?  
 24 MS. McCCLURE: Objection, asked

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1 and answered.  
 2 THE WITNESS: I don't recall  
 3 specifically, but I believe that was part  
 4 of the questionnaire.  
 5 BY MR. PIFKO:  
 6 Q. Let's go back to Exhibit 1 here.  
 7 On the third page of the exhibit,  
 8 tell me when you're there.  
 9 A. Oh. I thought that's where we  
 10 were.  
 11 Q. Yeah, we were.  
 12 A. Okay.  
 13 Q. It's got a bunch of -- well,  
 14 remember we just read a sentence in the top of  
 15 the first paragraph.  
 16 A. Uh-huh.  
 17 Q. Starting where we left off, it  
 18 says, "Respondent continued to sell controlled  
 19 substances to Grand, Discount Mail Meds and" Med  
 20 Assistant "even though Respondent knew, or should  
 21 have known, that these pharmacies were diverting  
 22 controlled substances into other than legitimate  
 23 medical, scientific and industrial channels."  
 24 Do you see that?

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1 A. Yes, I see that.  
 2 Q. Did I read that correctly?  
 3 A. Yes, you did.  
 4 Q. If you go back to page 2,  
 5 paragraph 3, it talks about how AmerisourceBergen  
 6 distributed approximately a million dosage units  
 7 of hydrocodone products to Grand Pharmacy.  
 8 Do you see that?  
 9 MS. McCCLURE: Objection to form.  
 10 THE WITNESS: I do.  
 11 BY MR. PIFKO:  
 12 Q. Did I read that correct -- did I  
 13 summarize that correctly?  
 14 A. I believe you did.  
 15 Q. Okay. And then in paragraph 4,  
 16 it talks about supplying hydrocodone products to  
 17 a number of other pharmacies.  
 18 Do you see that?  
 19 A. Yes, I do.  
 20 Q. And then it says in paragraph 4  
 21 that the distribution of those was under  
 22 circumstances that should have alerted  
 23 AmerisourceBergen that the pharmacies were  
 24 diverting hydrocodone.

<p style="text-align: right;">Page 42</p> <p>1 Do you see that?</p> <p>2 A. You said paragraph 4?</p> <p>3 Q. Yeah. The last sentence in the</p> <p>4 bottom of that first paragraph there.</p> <p>5 A. Okay. I see it.</p> <p>6 Q. Did I read that correctly?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Okay. Do you believe that the</p> <p>9 policies and procedures that you implemented</p> <p>10 after this August 2005 meeting were sufficient to</p> <p>11 detect diversion?</p> <p>12 MS. McCLURE: Objection, form.</p> <p>13 THE WITNESS: I believe that the</p> <p>14 actions that we took enabled us to</p> <p>15 identify internet pharmacies. And I</p> <p>16 think we ceased distributing to some of</p> <p>17 these. I can't tell you exactly which</p> <p>18 ones, but I believe we cut those off.</p> <p>19 BY MR. PIFKO:</p> <p>20 Q. After you received this letter?</p> <p>21 A. No. I think some of these were</p> <p>22 cut off before this action was taken. I can't --</p> <p>23 I don't remember specifically which ones, but I</p> <p>24 do recall that when this happened, some of these</p>	<p style="text-align: right;">Page 44</p> <p>1 have known that they were diverting them to</p> <p>2 illegitimate channels, you still feel like the</p> <p>3 company was doing enough, as the director of</p> <p>4 regulatory affairs?</p> <p>5 MS. McCLURE: Objection, form.</p> <p>6 THE WITNESS: I felt like we were</p> <p>7 doing the best we could as a distributor</p> <p>8 to comply with the regulations. And we</p> <p>9 took steps to improve our due diligence</p> <p>10 and our monitoring of our customers.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. Do you believe you took adequate</p> <p>13 steps to improve your due diligence and monitor</p> <p>14 customers?</p> <p>15 MS. McCLURE: Objection, form.</p> <p>16 THE WITNESS: Yes.</p> <p>17 BY MR. PIFKO:</p> <p>18 Q. Going to page 3 here, it says, in</p> <p>19 the middle of the second paragraph -- tell me</p> <p>20 when you're there -- "it is my preliminary</p> <p>21 conclusion that Respondent's continued</p> <p>22 registration while these proceedings are pending</p> <p>23 would constitute an imminent danger to the public</p> <p>24 health and safety because of the substantial</p>
<p style="text-align: right;">Page 43</p> <p>1 customers that were mentioned, we had cut off</p> <p>2 before the suspension.</p> <p>3 Q. Did receiving this letter cause</p> <p>4 AmerisourceBergen to be concerned that it wasn't</p> <p>5 doing enough to comply with diversion control</p> <p>6 laws and regulations?</p> <p>7 MS. McCLURE: Objection to form.</p> <p>8 THE WITNESS: I couldn't tell you</p> <p>9 what the company thought.</p> <p>10 BY MR. PIFKO:</p> <p>11 Q. How about you? You were</p> <p>12 regulatory affairs manager.</p> <p>13 A. Director.</p> <p>14 Q. Director.</p> <p>15 A. Uh-huh.</p> <p>16 Q. Did you feel like the company was</p> <p>17 doing enough to prevent diversion when you</p> <p>18 received this order to show cause?</p> <p>19 MS. McCLURE: Objection, form.</p> <p>20 THE WITNESS: Yes, I did.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. So even though the Department of</p> <p>23 Justice said that you were distributing</p> <p>24 substances to customers when you knew or should</p>	<p style="text-align: right;">Page 45</p> <p>1 likelihood that Respondent will continue to</p> <p>2 supply pharmacies that divert large quantities of</p> <p>3 controlled substances."</p> <p>4 Did I read that correctly?</p> <p>5 A. Yes, you did.</p> <p>6 Q. Upon receiving that, did that</p> <p>7 give you, as the director of compliance and</p> <p>8 regulatory issues, concern about whether the</p> <p>9 company's practices were sufficient?</p> <p>10 MS. McCLURE: Objection to form.</p> <p>11 THE WITNESS: No.</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. Did you think the Department of</p> <p>14 Justice's conclusions were wrong?</p> <p>15 A. I think so, yeah. They weren't</p> <p>16 completely accurate, in my opinion.</p> <p>17 Q. Why do you say that they weren't</p> <p>18 completely accurate?</p> <p>19 A. I can't really say. I just don't</p> <p>20 think they were completely accurate. I felt like</p> <p>21 we were doing the best we could to monitor the</p> <p>22 distribution of these drugs.</p> <p>23 Q. Do you have any factual basis to</p> <p>24 challenge that Department of Justice's conclusion</p>



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1 there?

2 MS. McCCLURE: Objection to form,

3 asked and answered.

4 THE WITNESS: Not today I don't,

5 no.

6 BY MR. PIFKO:

7 Q. Do you know what happened after

8 you received -- the company received this letter?

9 MS. McCCLURE: Form.

10 THE WITNESS: What do you mean,

11 what happened?

12 BY MR. PIFKO:

13 Q. The Orlando facility did get its

14 registration suspended. Correct?

15 A. Yes, that's correct.

16 Q. And you had to halt shipments of

17 product for some time period from that facility.

18 Correct?

19 MS. McCCLURE: Objection, form.

20 THE WITNESS: Ask the question

21 again, please, I'm sorry.

22 BY MR. PIFKO:

23 Q. You had to halt shipments of

24 product from that facility for some period of

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1 time after that. Correct?

2 MS. McCCLURE: Objection, form.

3 THE WITNESS: We had to halt

4 shipments of controlled substances from

5 the facility.

6 BY MR. PIFKO:

7 Q. Do you know how long that was in

8 place, where you weren't allowed to ship

9 controlled substances from that facility?

10 A. I couldn't tell you exactly, but

11 it was about three months.

12 Q. Some years later, the Houston

13 facility also almost lost its registration.

14 Correct?

15 MS. McCCLURE: Objection to form.

16 THE WITNESS: I don't know what

17 you're talking about.

18 BY MR. PIFKO:

19 Q. You don't have any recollection

20 of the DEA almost suspending the registration of

21 the Houston facility?

22 MS. McCCLURE: Objection to form.

23 THE WITNESS: I have no

24 knowledge. No knowledge of that.

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1 BY MR. PIFKO:

2 Q. Are you aware of any other

3 actions where the DEA was investigating the

4 company for potential violations of diversion

5 control laws?

6 A. I -- actions -- I mean, I can't

7 recall specifics.

8 Q. How about generally?

9 A. There's always investigations.

10 They inspect our facilities frequently, and there

11 could -- there's always -- I shouldn't say

12 always, but often there's minor violations that

13 are part of their investigation, part of the

14 Controlled Substances Act and the regulations.

15 Q. Do you recall any criminal

16 investigations that were occurring with respect

17 to AmerisourceBergen's diversion control

18 practices?

19 A. I assume if the New Jersey case

20 is considered a criminal action, yes.

21 Q. Okay. What do you know about the

22 New Jersey case?

23 MS. McCCLURE: Objection to form.

24 THE WITNESS: I just know that

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1 it's a -- that it was a criminal case

2 that I think began in 2012, I believe.

3 BY MR. PIFKO:

4 Q. Did it concern the company's

5 diversion control practices?

6 A. I believe so.

7 Q. When did you first learn about

8 that?

9 A. I learned about that because I

10 was the person they called to ask where to send

11 the initial subpoena. So it was sometime in

12 2012, I believe.

13 Q. So the Department --

14 A. I'm sorry. When I say "they,"

15 New York US -- I don't know if it was US Attorney

16 or New York AG. I can't remember.

17 Q. Okay. So someone from a

18 government enforcement agency contacted you and

19 said they were going to send a subpoena to the

20 company and asked where to send it?

21 A. That's what I recall, yes.

22 Q. Okay. What did you do when you

23 received that inquiry?

24 MS. McCCLURE: Objection to form.



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1 THE WITNESS: I don't remember  
2 exactly. I'm sure I gave it to legal.  
3 BY MR. PIFKO:  
4 Q. Okay. Did you discuss that with  
5 Mr. Chris Zimmerman?  
6 A. I'm sure I would have. He's my  
7 boss, yes.  
8 Q. And he had responsibility for  
9 diversion control issues as well. Correct?  
10 MS. McCLURE: Objection to form.  
11 THE WITNESS: He's our department  
12 head, so he's got high level  
13 responsibility for all that.  
14 BY MR. PIFKO:  
15 Q. Did you ever speak to anyone at  
16 the DEA or the US Attorney's Office in connection  
17 with that investigation?  
18 A. No, I don't believe so.  
19 Q. Did you compile documents to  
20 respond to the subpoena?  
21 MS. McCLURE: Objection to form.  
22 THE WITNESS: Personally, I don't  
23 think so, no.  
24 BY MR. PIFKO:

Row	Bar Length (approx. %)
1	45
2	85
3	48
4	35
5	90
6	90
7	25
8	55
9	88
10	75
11	30
12	60
13	50
14	50
15	70
16	98
17	15
18	30
19	60
20	85

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1 Q. Did you ever personally receive  
2 the subpoena that the call was about?  
3 MS. McCLURE: Objection to form.  
4 THE WITNESS: I can't remember if  
5 they sent it -- I can't remember if it  
6 came directly to me or not.  
7 BY MR. PIFKO:  
8 Q. Do you recall discussing the  
9 investigation with any other members of the  
10 diversion control team?  
11 A. Not specifically.  
12 Q. How about generally?  
13 A. Generally, I'm sure, yes.  
14 Q. Do you know who Mr. Tomkiewicz  
15 is?  
16 A. Yes.  
17 Q. Did you discuss the Department of  
18 Justice investigation with Mr. Tomkiewicz?  
19 A. No, not specifically. I don't  
20 think he was with us at the time.

Category	Percentage
1	85
2	10
3	80
4	10
5	90
6	10
7	85
8	30
9	10
10	55
11	10
12	65
13	10
14	45
15	10
16	55
17	10
18	70
19	10
20	60
21	10
22	45
23	10
24	85
25	10
26	95
27	10
28	90
29	10
30	20
31	40
32	10
33	80
34	10
35	50
36	10
37	90
38	10
39	85

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1 BY MR. PIFKO:  
2 Q. Did you make any changes to the  
3 company's practices after learning about that  
4 investigation?  
5 MS. McCLURE: Objection to form.  
6 THE WITNESS: I don't recall  
7 making any changes.  
8 BY MR. PIFKO:  
9 Q. Were you concerned at the time  
10 that there were criminal investigations of  
11 AmerisourceBergen that were occurring?  
12 MS. McCLURE: Objection to form.  
13 THE WITNESS: Oh, yes, I was  
14 concerned. Yes.  
15 BY MR. PIFKO:  
16 Q. Why were you concerned?  
17 A. Because we were being  
18 investigated.  
19 Q. Why did being investigated give  
20 you cause for concern?  
21 A. That's always a concern. If  
22 you're being investigated, that's a concern.  
23 Q. Do you know what the ultimate  
24 outcome of that investigation was?

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1 A. No, I don't.  
2 Q. Okay.  
3 A. My understanding, it's still  
4 ongoing.  
5 MR. PIFKO: Let's take a short  
6 break.  
7 THE VIDEOGRAPHER: Going off the  
8 record at 11:50 a.m.  
9 - - -  
10 (A recess was taken from  
11 11:50 a.m. to 12:07 p.m.)  
12 - - -  
13 THE VIDEOGRAPHER: Back on the  
14 record at 12:07 p.m.  
15 BY MR. PIFKO:  
16 Q. I want to bring your attention  
17 back to Exhibit 1.  
18 A. Okay.  
19 Q. All right. So I just want to  
20 confirm, as we discussed before we went on the  
21 break, there was nothing different about the  
22 procedures at the Orlando facility as opposed to  
23 any other facility, any other distribution  
24 facility ran by AmerisourceBergen. Correct?

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1 MS. McCLURE: Objection, asked  
2 and answered.  
3 THE WITNESS: Would that be prior  
4 to the suspension?  
5 BY MR. PIFKO:  
6 Q. Yes.  
7 A. Is that what you're asking?  
8 Q. Yes.  
9 A. As I recall, it would be the same  
10 as any of the other facilities.  
11 Q. Okay. So at the time this letter  
12 was sent, AmerisourceBergen's diversion control  
13 systems were the same at all of its distribution  
14 centers. Correct?  
15 MS. McCLURE: Objection to form.  
16 THE WITNESS: That's what I  
17 recall, yes.  
18 BY MR. PIFKO:  
19 Q. So anything occurring at this  
20 Orlando facility could be occurring at any other  
21 distribution center. Correct?  
22 MS. McCLURE: Objection, form.  
23 THE WITNESS: I disagree.  
24 BY MR. PIFKO:

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1 Q. What do you disagree?  
2 A. Because they're a different  
3 customer base, different region of the country.  
4 Q. But with respect to  
5 AmerisourceBergen's procedures, the same things  
6 that are occurring at this facility are the same  
7 thing that are occurring at other facilities.  
8 Correct?  
9 MS. McCLURE: Objection to form.  
10 THE WITNESS: As far as our  
11 procedures and how -- our policies and  
12 procedures, yes, they're -- they would be  
13 the same for all of the distribution  
14 centers.  
15 BY MR. PIFKO:  
16 Q. Okay. Did AmerisourceBergen  
17 employ any sort of different system to monitor  
18 internet pharmacies as opposed to retail  
19 pharmacies or chain pharmacies?  
20 MS. McCLURE: Objection, form.  
21 THE WITNESS: No. As far as a  
22 system itself, no.  
23 BY MR. PIFKO:  
24 Q. So AmerisourceBergen's system

<p style="text-align: right;">Page 58</p> <p>1 used to monitor internet pharmacies was the same</p> <p>2 system that it used to monitor retail and chain</p> <p>3 pharmacies. Correct?</p> <p>4 MS. McCCLURE: Objection, form.</p> <p>5 THE WITNESS: Well, we weren't</p> <p>6 specifically monitoring internet</p> <p>7 pharmacies. We were monitoring our</p> <p>8 customers, our pharmacy customers.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. And that system that was used was</p> <p>11 the same for all customers, regardless of the</p> <p>12 type of customers. Correct?</p> <p>13 MS. McCCLURE: Objection to form,</p> <p>14 asked and answered.</p> <p>15 THE WITNESS: As I recall, yes.</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. Let's go to page 2 of Exhibit 1.</p> <p>18 A. Okay.</p> <p>19 Q. So looking at paragraph 4, it</p> <p>20 says, the bottom of paragraph 4, "Respondent</p> <p>21 distributed hydrocodone under the following</p> <p>22 circumstances that should have alerted Respondent</p> <p>23 that the pharmacies were diverting hydrocodone."</p> <p>24 Do you see that?</p>	<p style="text-align: right;">Page 60</p> <p>1 MS. McCCLURE: Objection.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. -- at that time?</p> <p>4 MS. McCCLURE: Asked and answered.</p> <p>5 THE WITNESS: As I recall, it was</p> <p>6 a system that generated a report that</p> <p>7 indicated any orders that were above</p> <p>8 certain parameters looking back over that</p> <p>9 customer's average purchases. And they</p> <p>10 would be flagged on that report if they</p> <p>11 exceeded that average or that parameter.</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. So you agree here that the DEA is</p> <p>14 saying in this letter that AmerisourceBergen</p> <p>15 nevertheless distributed hydrocodone to</p> <p>16 pharmacies even though the amounts exceeded what</p> <p>17 an average pharmacy would order for legitimate</p> <p>18 needs.</p> <p>19 Do you see that?</p> <p>20 MS. McCCLURE: Objection, form.</p> <p>21 THE WITNESS: You're on the</p> <p>22 subparagraph A?</p> <p>23 BY MR. PIFKO:</p> <p>24 Q. Yes.</p>
<p style="text-align: right;">Page 59</p> <p>1 A. Yes, I do.</p> <p>2 Q. Did I read that correctly?</p> <p>3 A. Yes, you did.</p> <p>4 Q. Then it's got subparts A through</p> <p>5 D.</p> <p>6 Do you see those?</p> <p>7 A. Yes, I do.</p> <p>8 Q. Part A says, "Respondent</p> <p>9 distributed hydrocodone to each of the named</p> <p>10 pharmacies, and others, in amounts that far</p> <p>11 exceeded what an average pharmacy orders to meet</p> <p>12 the legitimate needs of its customers."</p> <p>13 Do you see that?</p> <p>14 A. Yes, I do.</p> <p>15 Q. Did I read that correctly?</p> <p>16 A. Yes, you did.</p> <p>17 Q. "Respondent knew that orders of</p> <p>18 an unusual size were 'suspicious' as that term is</p> <p>19 used in 21 C.F.R. section 1301.74(b)."</p> <p>20 Did I read that correctly?</p> <p>21 A. Yes, you did.</p> <p>22 Q. What was AmerisourceBergen's</p> <p>23 system that was in place to monitor the amounts</p> <p>24 that its customers ordered --</p>	<p style="text-align: right;">Page 61</p> <p>1 A. I agree that that's what DEA is</p> <p>2 saying, yes.</p> <p>3 Q. So did AmerisourceBergen at this</p> <p>4 time not have a way of monitoring what a</p> <p>5 customer's volume was with -- as compared to what</p> <p>6 an average pharmacy would need to meet legitimate</p> <p>7 needs of its customers?</p> <p>8 MS. McCCLURE: Objection, form.</p> <p>9 THE WITNESS: I don't recall the</p> <p>10 specific algorithms of that program.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. You believe there was a program</p> <p>13 that had algorithms?</p> <p>14 A. I'm sorry?</p> <p>15 Q. You believe there was a program</p> <p>16 that had some algorithm?</p> <p>17 A. I don't know if algorithm is a</p> <p>18 correct word, but it had a formula built into the</p> <p>19 system, a certain percentage. And it basically</p> <p>20 looked at that customer's purchases over, I</p> <p>21 believe it was -- I believe it was a rolling</p> <p>22 three-month average. And if it exceeded that by</p> <p>23 a certain amount, then it would be flagged on</p> <p>24 this report as a possible excessive order.</p>

<p style="text-align: right;">Page 62</p> <p>1 Q. But according to DEA, you failed  2 to alert DEA and you failed to prevent orders of  3 unusual size from being shipped to customers.  4 Correct?</p> <p>5 MS. McCLURE: Objection to form.  6 THE WITNESS: Can you repeat that  7 again? I'm sorry.  8 BY MR. PIFKO:  9 Q. Yes. So in A here it's saying  10 that you nevertheless shipped orders beyond what  11 an average pharmacy needed?  12 MS. McCLURE: Objection, form.  13 THE WITNESS: I don't know what  14 an average pharmacy needed.  15 BY MR. PIFKO:  16 Q. Okay.  17 A. So...  18 Q. So at the time AmerisourceBergen  19 had no way of evaluating what an average pharmacy  20 needed; is that correct?  21 MS. McCLURE: Objection, form.  22 THE WITNESS: We only had the  23 ability to know what our customers were  24 purchasing.</p>	<p style="text-align: right;">Page 64</p> <p>1 MS. McCLURE: Objection, asked  2 and answered.  3 THE WITNESS: I see that in  4 general, yes.  5 BY MR. PIFKO:  6 Q. And if you go on the first page  7 here, it says that, in paragraph 1, "Respondent  8 distributed over 3.8 million dosage units of  9 combination hydrocodone products to customers  10 that it knew or should have known were diverting  11 the hydrocodone into other than legitimate  12 medical, scientific and industrial channels."  13 Do you see that?  14 MS. McCLURE: Objection, form.  15 THE WITNESS: I see that.  16 BY MR. PIFKO:  17 Q. And so my question to you is,  18 there's a failure of AmerisourceBergen to catch  19 this volumes that the Department of Justice  20 identified. Correct?  21 MS. McCLURE: Objection, form.  22 THE WITNESS: In their opinion,  23 yes.  24 BY MR. PIFKO:</p>
<p style="text-align: right;">Page 63</p> <p>1 BY MR. PIFKO:  2 Q. Did you take any steps to know  3 what the average pharmacy within your own  4 customers would need to fill legitimate needs of  5 its customers?  6 MS. McCLURE: Objection, form.  7 THE WITNESS: I don't recall.  8 BY MR. PIFKO:  9 Q. Would you agree that there was a  10 failure of AmerisourceBergen's system that led to  11 the receipt of this order to show cause?  12 MS. McCLURE: Objection, form.  13 THE WITNESS: No, I don't agree  14 that there was a failure to our system.  15 BY MR. PIFKO:  16 Q. Going to page 3 here, the top  17 paragraph. We looked at this earlier.  18 A. Uh-huh.  19 Q. It said that AmerisourceBergen  20 shipped over 5.2 million dosage units of  21 hydrocodone to pharmacies that had certain  22 characteristics that were discussed in your  23 August 10, 2005 meeting.  24 Do you see that?</p>	<p style="text-align: right;">Page 65</p> <p>1 Q. What I'm trying to understand is  2 where -- what occurred to result in that failure?  3 MS. McCLURE: Objection to form.  4 THE WITNESS: I didn't say there  5 was a failure.  6 BY MR. PIFKO:  7 Q. Did you not know that those  8 volumes of hydrocodone products were being  9 shipped to AmerisourceBergen customers?  10 A. I didn't know personally, no.  11 Q. Was the company doing anything to  12 monitor the potentially significant volumes of  13 hydrocodone products that were being shipped to  14 its customers?  15 MS. McCLURE: Objection, form.  16 THE WITNESS: We had a suspicious  17 order monitoring program.  18 BY MR. PIFKO:  19 Q. Okay. So did the system just not  20 catch these orders?  21 MS. McCLURE: Objection, form.  22 THE WITNESS: I couldn't tell you  23 that.  24 BY MR. PIFKO:</p>

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1 Q. Do you know if the system caught  
2 these orders and then they were simply released?  
3 MS. McCLURE: Objection, form.  
4 THE WITNESS: If these orders  
5 were suspicious, they would have been on  
6 that report and they would have been  
7 reported to DEA as suspicious.  
8 BY MR. PIFKO:  
9 Q. The DEA here is saying these  
10 orders are suspicious.  
11 Do you agree? Let's look at page  
12 2, paragraph 4a.  
13 MS. McCLURE: Objection.  
14 BY MR. PIFKO:  
15 Q. "Respondent knew that orders of  
16 an unusual size were 'suspicious' as that term is  
17 used in 21 C.F.R. Section 1301.74(b)."  
18 MS. McCLURE: What's the  
19 question?  
20 THE WITNESS: Yeah.  
21 BY MR. PIFKO:  
22 Q. My question to you was, the DEA  
23 was saying these orders were suspicious.  
24 Correct?

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1 MS. McCLURE: Objection.  
2 Objection, form.  
3 THE WITNESS: I don't see where  
4 DEA says those orders were suspicious.  
5 BY MR. PIFKO:  
6 Q. Well, it's saying each of these  
7 pharmacies and others where you distributed  
8 hydrocodone products to them in amounts that far  
9 exceeded what an average pharmacy orders to meet  
10 the legitimate needs of its customers.  
11 Do you see that?  
12 A. Yes, I see that.  
13 Q. Okay. And it's talking about  
14 orders that AmerisourceBergen shipped to its  
15 customers. Correct?  
16 A. Yes, yes, that's correct.  
17 Q. And then it says, you knew that  
18 orders of an unusual size were suspicious.  
19 Do you see that?  
20 A. I see that.  
21 Q. Did you not know that the orders  
22 that exceeded what an average pharmacy would need  
23 were suspicious?  
24 MS. McCLURE: Objection to form.

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1 THE WITNESS: Again, I don't know  
2 what an average pharmacy's purchases  
3 were.  
4 BY MR. PIFKO:  
5 Q. Okay. So AmerisourceBergen had  
6 no steps to monitor what an average pharmacy's  
7 needs were at that time.  
8 MS. McCLURE: Objection.  
9 BY MR. PIFKO:  
10 Q. Is that correct?  
11 A. That's --  
12 MS. McCLURE: Objection, form,  
13 asked and answered and misstates the  
14 witness's prior testimony.  
15 You may answer.  
16 THE WITNESS: I disagree. We  
17 have a suspicious order monitoring  
18 program.  
19 BY MR. PIFKO:  
20 Q. Okay. But you just said, I don't  
21 know what an average pharmacy would need.  
22 A. That's correct.  
23 Q. Did AmerisourceBergen have any  
24 policies or procedures in place to evaluate what

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1 an average pharmacy might need?  
2 MS. McCLURE: Objection, form.  
3 THE WITNESS: We have a  
4 suspicious order monitoring program to  
5 monitor our own customers. We don't  
6 know -- we didn't know what an average  
7 pharmacy purchased, what the quantities  
8 were for an average pharmacy.  
9 BY MR. PIFKO:  
10 Q. So at that time, there was  
11 nothing in AmerisourceBergen's system to evaluate  
12 what an average pharmacy might need for its  
13 legitimate needs for its customers. Correct?  
14 MS. McCLURE: Objection, form.  
15 THE WITNESS: Not other than our  
16 own customers. That's the only data we  
17 have or that we had at that time.  
18 BY MR. PIFKO:  
19 Q. But you were saying, under  
20 AmerisourceBergen's systems in place at that  
21 time, it only monitored the average of each  
22 customer against its own orders at that time.  
23 Correct?  
24 MS. McCLURE: Objection, form.



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1 THE WITNESS: That's what I  
2 recall, yes.  
3 BY MR. PIFKO:  
4 Q. You weren't undertaking any  
5 effort to compare a pharmacy's orders compared to  
6 another pharmacy's orders at that time. Correct?  
7 MS. McCLURE: Objection to form.  
8 THE WITNESS: Not that I know of.  
9 BY MR. PIFKO:  
10 Q. Let's go to paragraph 4b.  
11 A. Okay.  
12 Q. It says, "Respondent distributed  
13 hydrocodone to each of the named pharmacies, and  
14 others, even though the pharmacies ordered small  
15 amounts of other drug products relative to the  
16 pharmacies' hydrocodone purchases from  
17 Respondent."  
18 Do you see that?  
19 A. Yes, I do.  
20 Q. "Respondent knew orders for large  
21 amounts of hydrocodone in combination with small  
22 amounts of other drug products deviated from the  
23 normal pattern of orders placed by pharmacies."  
24 Do you see that?

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1 A. I see that.  
2 Q. Did you know, as the head of  
3 regulatory and compliance issues for diversion  
4 control at that time, that an order for large  
5 amounts of hydrocodone as compared to other drug  
6 products was something that deviated from the  
7 normal pattern of ordering for a pharmacy?  
8 MS. McCLURE: Objection, form.  
9 THE WITNESS: Repeat the  
10 question, please?  
11 BY MR. PIFKO:  
12 Q. Did you know, as the head of  
13 regulatory and compliance issues for diversion  
14 control issues at that time, that an order for  
15 large amounts of hydrocodone, as compared to  
16 other drug products, was something that deviated  
17 from the normal pattern of ordering for a  
18 pharmacy?  
19 MS. McCLURE: Objection to form.  
20 THE WITNESS: We were -- we  
21 monitored the purchases of that customer,  
22 compared to their previous purchases, is  
23 the way our system worked.  
24 BY MR. PIFKO:

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1 Q. Okay. Did you have any system in  
2 place to monitor its purchasing of Schedule II or  
3 III controlled substances as it compared to other  
4 types of substances?  
5 A. Not that I know of.  
6 Q. Let's go to paragraph 4c.  
7 It says, "Respondent distributed  
8 hydrocodone to each of the named pharmacies, and  
9 others, even though the pharmacies ordered  
10 hydrocodone much more frequently than  
11 Respondent's other pharmacy customers."  
12 Do you see that?  
13 A. Yes, I do.  
14 Q. Did I read that correctly?  
15 A. Yes, you did.  
16 Q. It says, "Respondent knew that  
17 orders of unusual frequency were 'suspicious' as  
18 that term is used in 21 C.F.R. Section  
19 1301.74(b)."  
20 Did I read that correct?  
21 A. That's correct.  
22 Q. Did AmerisourceBergen have any  
23 system in place at that time to evaluate the  
24 frequency of orders of controlled substances

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1 placed by its customers?  
2 MS. McCLURE: Objection to form.  
3 THE WITNESS: Not that I know of.  
4 BY MR. PIFKO:  
5 Q. You said something earlier  
6 about -- that after the 2005 meeting with DEA  
7 that's referenced in here --  
8 A. Uh-huh.  
9 Q. And let's be specific, the one  
10 that's referenced in paragraph 5 of Exhibit 1.  
11 A. Okay.  
12 Q. You said that after that meeting,  
13 you initiated some sort of due diligence process.  
14 Correct?  
15 MS. McCLURE: Objection, form.  
16 THE WITNESS: That's correct.  
17 BY MR. PIFKO:  
18 Q. Prior to that time, did you have  
19 no due diligence process in place?  
20 MS. McCLURE: Objection to form.  
21 THE WITNESS: Yes, we had due  
22 diligence. Yes.  
23 BY MR. PIFKO:  
24 Q. What due diligence process was in



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1 place before that meeting?

2 A. The same due diligence that we

3 had had in place for years.

4 Q. And what was it --

5 A. Do you want me to describe it?

6 Q. Yes.

7 A. Our responsibility was to make a

8 good faith effort to make sure that that

9 customer's properly licensed with the state and

10 registered with DEA.

11 Q. Anything else?

12 A. No.

13 Q. So at that time of the meeting in

14 2005, the only due diligence that was in place

15 was a process to make sure that the customer was

16 properly licensed; is that correct?

17 MS. McCLURE: Objection, form.

18 THE WITNESS: Properly licensed

19 by the state and registered with DEA.

20 That was our requirement under the

21 federal regulations.

22 BY MR. PIFKO:

23 Q. How is it that AmerisourceBergen

24 missed these millions of orders in its suspicious

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1 order monitoring system, as discussed here in

2 Exhibit 1?

3 MS. McCLURE: Objection, form,

4 foundation.

5 THE WITNESS: I'm not sure we

6 missed them. I believe they were

7 reported to DEA as suspicious orders.

8 BY MR. PIFKO:

9 Q. It's your testimony that these

10 orders were picked up by the suspicious order

11 monitoring system and reported to DEA?

12 A. I'm not saying every one. I'm

13 just -- I know that, from what I recall, some of

14 these customers that were mentioned in here, as I

15 recall, had orders that were reported to DEA as

16 suspicious.

17 Q. Do you have any sense of the

18 percentage of the orders, if any, that were

19 caught?

20 A. No, I do not.

21 Q. If you reported these orders to

22 DEA, do you have any understanding as to why DEA

23 issued this order to show cause?

24 MS. McCLURE: Objection, form.

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1 THE WITNESS: No, I don't.

2 BY MR. PIFKO:

3 Q. Did you do anything other than

4 report these orders to -- some of the orders that

5 you discussed to DEA to prevent diversion?

6 MS. McCLURE: Objection, form.

7 THE WITNESS: Yes.

8 BY MR. PIFKO:

9 Q. What did you do?

10 A. We cut off -- I believe we cut

11 off some of these pharmacies, if not all of them.

12 I can't recall exactly which ones.

13 Q. Do you know how many you cut off?

14 A. Couldn't -- don't recall.

15 Q. Do you know when you cut them

16 off?

17 A. Either prior to the suspension or

18 after.

19 Q. So you cut some of them off maybe

20 after the suspension order?

21 MS. McCLURE: Objection, form.

22 THE WITNESS: Well, it would have

23 been prior, because we weren't able to

24 ship after -- after the suspension order.

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1 So it would have been prior to that.

2 BY MR. PIFKO:

3 Q. Would that be contained in any

4 document?

5 MS. McCLURE: Objection, form.

6 THE WITNESS: I'm sure -- no, I

7 don't want to speculate. I don't know.

8 BY MR. PIFKO:

9 Q. Based on your -- you've been with

10 the company for over 30 years. Right? Longer?

11 A. Longer.

12 Q. 40 years?

13 A. Yes.

14 Q. Based on your knowledge of the

15 company's practices and procedures, if you cut

16 off a customer, where would that be documented?

17 MS. McCLURE: Objection, form.

18 THE WITNESS: It depends on what

19 system we're using to document things at

20 a specific time. We've changed

21 documentation processes over the years

22 many times.

23 BY MR. PIFKO:

24 Q. At the time of this order to show

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1 cause.  
2 MS. McCCLURE: Objection, form.  
3 THE WITNESS: Again, I'm not sure  
4 where it would have been documented.  
5 BY MR. PIFKO:  
6 Q. You don't know if it would have  
7 been documented at all?  
8 MS. McCCLURE: Objection, form,  
9 misstates the witness's prior testimony.  
10 THE WITNESS: I don't recall  
11 exactly.  
12 BY MR. PIFKO:  
13 Q. How about generally?  
14 A. Generally --  
15 MS. McCCLURE: Same objection.  
16 THE WITNESS: Generally, I would  
17 say that they were documented somewhere.  
18 BY MR. PIFKO:  
19 Q. Did you review anything in  
20 preparing for your deposition that would have  
21 discussed the company's shipments or orders  
22 from -- with respect to the pharmacies in  
23 Exhibit 1?  
24 MS. McCCLURE: Objection, form.

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1 THE WITNESS: No, no.  
2 BY MR. PIFKO:  
3 Q. If you were going to do that, how  
4 would you do that?  
5 MS. McCCLURE: Objection, form.  
6 THE WITNESS: How would I do  
7 what?  
8 BY MR. PIFKO:  
9 Q. If you were going to research the  
10 order history --  
11 A. Uh-huh.  
12 Q. -- and shipments made to any of  
13 the customers discussed in Exhibit 1, how would  
14 you go about doing that?  
15 MS. McCCLURE: Objection, form.  
16 THE WITNESS: I would go back to  
17 find out whatever system we were using to  
18 document and look through that and do a  
19 search.  
20 BY MR. PIFKO:  
21 Q. It's true that today you can log  
22 on to AmerisourceBergen's system and look back at  
23 customer histories and correspondence. Correct?  
24 MS. McCCLURE: Objection, form.

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1 THE WITNESS: I can't.  
2 BY MR. PIFKO:  
3 Q. You're unable to do that?  
4 A. Login to, which system are you  
5 talking about? Our business system?  
6 Q. AmerisourceBergen's diversion  
7 control systems.  
8 MS. McCCLURE: Objection, form.  
9 THE WITNESS: No. I don't login  
10 to that.  
11 BY MR. PIFKO:  
12 Q. Do members of your team login to  
13 that?  
14 MS. McCCLURE: Objection, form.  
15 THE WITNESS: Not on my team, no.  
16 BY MR. PIFKO:  
17 Q. Do you know who Eric Cherveney is?  
18 A. Yes, I do.  
19 Q. Is he someone that was under your  
20 team at any point?  
21 MS. McCCLURE: Objection, form.  
22 THE WITNESS: He was under my  
23 team back in, you know, I can't  
24 remember -- in the 2005 to 2010, sometime

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1 in that area.  
2 BY MR. PIFKO:  
3 Q. If he testified that you could go  
4 back and look into AmerisourceBergen's systems  
5 and get ordering information and information  
6 about a customer's history going back at least as  
7 early as 2000, would you have any reason to  
8 disagree with him?  
9 MS. McCCLURE: Objection, form.  
10 THE WITNESS: I'm not sure how  
11 you would, but maybe he can.  
12 BY MR. PIFKO:  
13 Q. With respect to these orders, you  
14 would have reported them after you shipped them.  
15 Correct?  
16 MS. McCCLURE: Objection, form.  
17 THE WITNESS: Which orders are  
18 you talking about specifically?  
19 BY MR. PIFKO:  
20 Q. The 5.2 million orders of  
21 hydrocodone products or dosage units discussed in  
22 Exhibit 1.  
23 MS. McCCLURE: Objection to form.  
24 THE WITNESS: At that time, they

<p style="text-align: right;">Page 82</p> <p>1 would have been reported after.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. None of these orders would have</p> <p>4 been reported prior to shipment. Correct?</p> <p>5 A. That's correct.</p> <p>6 Q. And all of these orders would</p> <p>7 have been shipped without any due diligence.</p> <p>8 Correct?</p> <p>9 MS. McCLURE: Objection, form.</p> <p>10 THE WITNESS: That's incorrect.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. Other than checking their</p> <p>13 registration?</p> <p>14 MS. McCLURE: Objection, form.</p> <p>15 THE WITNESS: Checking the</p> <p>16 registration, the licensing and all the</p> <p>17 other due diligence that we do on</p> <p>18 customers, whether it's credit, their</p> <p>19 ability to pay and whatever else that</p> <p>20 our -- there's different -- other parts</p> <p>21 of our due diligence that are done. But</p> <p>22 as far as controlled substances, it was</p> <p>23 the licensing.</p> <p>24 BY MR. PIFKO:</p>	<p style="text-align: right;">Page 84</p> <p>1 decision would be made about that</p> <p>2 customer based on that due diligence.</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. Right. But my point is, there's</p> <p>5 no specific due diligence that you conduct with</p> <p>6 respect to an order?</p> <p>7 A. To each order?</p> <p>8 MS. McCLURE: Objection to form.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. Right.</p> <p>11 A. Not -- not for each specific</p> <p>12 order, no.</p> <p>13 Q. Okay. So the only due diligence</p> <p>14 that would have been conducted would have been a</p> <p>15 collecting of a form and reviewing that form and</p> <p>16 deciding as a general matter whether to do</p> <p>17 business with that customer. Correct?</p> <p>18 MS. McCLURE: Objection, form.</p> <p>19 THE WITNESS: That's -- that's</p> <p>20 incorrect. That's not correct.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. What's incorrect about my</p> <p>23 statement?</p> <p>24 A. Well, the due diligence is</p>
<p style="text-align: right;">Page 83</p> <p>1 Q. Okay. So the orders of the</p> <p>2 5.2 million dosage units that are discussed in</p> <p>3 Exhibit 1, the only due diligence with respect to</p> <p>4 diversion control that would have been performed</p> <p>5 on those would have been checking the licensing?</p> <p>6 MS. McCLURE: Objection, form,</p> <p>7 misstates the witness's prior testimony.</p> <p>8 THE WITNESS: Well, let me take</p> <p>9 you back, because actually, since 2005,</p> <p>10 after that meeting with DEA, we did put</p> <p>11 the due diligence process in place with</p> <p>12 questionnaires. And probably I'm sure a</p> <p>13 lot of these pharmacies had been -- had a</p> <p>14 due diligence investigation, had a</p> <p>15 questionnaire and a site visit.</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. But that's something you</p> <p>18 conducted -- it's static.</p> <p>19 You conduct the -- you collect</p> <p>20 the questionnaire, and it sits in a file.</p> <p>21 Correct?</p> <p>22 MS. McCLURE: Objection, form.</p> <p>23 THE WITNESS: No. It gets</p> <p>24 reviewed. It would be reviewed, and a</p>	<p style="text-align: right;">Page 85</p> <p>1 just -- that due diligence questionnaire is just</p> <p>2 part of the process. So any -- an order that</p> <p>3 would have shown up on that suspicious order</p> <p>4 report would have prompted a due diligence</p> <p>5 investigation --</p> <p>6 MS. McCLURE: Objection. Sorry.</p> <p>7 THE WITNESS: -- and a site</p> <p>8 visit.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. So I'm getting mixed statements</p> <p>11 from you.</p> <p>12 You said that there was no</p> <p>13 specific due diligence with respect to an order;</p> <p>14 is that correct?</p> <p>15 A. Well, that due diligence could</p> <p>16 have been prompted by an order.</p> <p>17 Q. Explain that to me.</p> <p>18 A. Okay. So when we -- when we</p> <p>19 started doing the questionnaires, the basis for</p> <p>20 doing those questionnaires would have been that</p> <p>21 possible excessive and suspicious order report,</p> <p>22 and that's when that would prompt that</p> <p>23 questionnaire. So it is related to -- it would</p> <p>24 have been related to an order.</p>

<p style="text-align: right;">Page 86</p> <p>1 Q. How frequently --</p> <p>2 A. Or a customer's history.</p> <p>3 Q. How frequently would you collect</p> <p>4 this form from a customer?</p> <p>5 MS. McCLURE: Objection, form.</p> <p>6 THE WITNESS: I don't know.</p> <p>7 BY MR. PIFKO:</p> <p>8 Q. For every single order that they</p> <p>9 would place that would be suspicious, you would</p> <p>10 collect another form?</p> <p>11 MS. McCLURE: Objection, form.</p> <p>12 THE WITNESS: I don't know.</p> <p>13 BY MR. PIFKO:</p> <p>14 Q. Was it -- well, you were in</p> <p>15 charge of diversion control practices at the</p> <p>16 time. Correct?</p> <p>17 MS. McCLURE: Objection, form.</p> <p>18 THE WITNESS: I oversaw that</p> <p>19 area. That's part of regulatory at the</p> <p>20 time, yes.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. And you don't know how the due</p> <p>23 diligence process worked?</p> <p>24 MS. McCLURE: Objection, form,</p>	<p style="text-align: right;">Page 88</p> <p>1 Q. Every time?</p> <p>2 A. I'm assuming it would, yes.</p> <p>3 Q. So every time AmerisourceBergen</p> <p>4 had a suspicious order at the time of the</p> <p>5 issuance of this order to show cause and before,</p> <p>6 every single time, for every customer, it would</p> <p>7 have triggered a due diligence investigation?</p> <p>8 A. I don't know that. I don't know</p> <p>9 that for sure.</p> <p>10 Q. You don't know that?</p> <p>11 A. I don't know that.</p> <p>12 Q. Do you have any specific</p> <p>13 understanding of how AmerisourceBergen's due</p> <p>14 diligence process worked --</p> <p>15 MS. McCLURE: Objection to form.</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. -- at that time and before?</p> <p>18 A. I've already answered that.</p> <p>19 Q. Well, I'm trying to understand</p> <p>20 what would trigger a due diligence investigation.</p> <p>21 You don't seem to know.</p> <p>22 MS. McCLURE: Objection,</p> <p>23 misstates the witness's testimony, asked</p> <p>24 and answered, form.</p>
<p style="text-align: right;">Page 87</p> <p>1 asked and answered.</p> <p>2 THE WITNESS: Yes. I already</p> <p>3 explained that to you.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. Well, I'm asking you questions,</p> <p>6 and you're saying you don't know.</p> <p>7 A. Well, I don't know if it was done</p> <p>8 on every single order.</p> <p>9 Q. Okay.</p> <p>10 A. I couldn't tell you. It may have</p> <p>11 been.</p> <p>12 Q. But that's something that you</p> <p>13 don't seem to know about the system. Agree?</p> <p>14 MS. McCLURE: Objection, form.</p> <p>15 THE WITNESS: Ask the question</p> <p>16 again? I'm sorry.</p> <p>17 BY MR. PIFKO:</p> <p>18 Q. Well, I'm trying to understand if</p> <p>19 AmerisourceBergen had an order that was</p> <p>20 suspicious, whether that order triggered a</p> <p>21 specific due diligence inspection of the order.</p> <p>22 A. If it -- if that -- if that order</p> <p>23 showed up on a suspicious order report, it would</p> <p>24 have triggered a due diligence investigation.</p>	<p style="text-align: right;">Page 89</p> <p>1 THE WITNESS: As I recall, a due</p> <p>2 diligence investigation would have been</p> <p>3 prompted by customers showing up on that</p> <p>4 suspicious order report, that possible</p> <p>5 excessive and suspicious orders I think</p> <p>6 is what it's called. That would prompt</p> <p>7 that due diligence to be done.</p> <p>8 Would it be done every single</p> <p>9 time an order would hit that? I don't</p> <p>10 know. I don't recall.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. Would you have investigated that</p> <p>13 order specifically, or would you just look at the</p> <p>14 customer?</p> <p>15 MS. McCLURE: Objection to form.</p> <p>16 THE WITNESS: We mainly would</p> <p>17 look at the customer.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. And what would the nature of your</p> <p>20 customer inquiry be?</p> <p>21 MS. McCLURE: Objection, form.</p> <p>22 THE WITNESS: The nature would be</p> <p>23 a site visit and completion of a</p> <p>24 questionnaire.</p>

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1 BY MR. PIFKO:  
2 Q. So did this prompt any changes to  
3 AmerisourceBergen's suspicious order monitoring  
4 system?  
5 MS. McCLURE: Objection, form.  
6 THE WITNESS: Did what prompt?  
7 BY MR. PIFKO:  
8 Q. This order to show cause.  
9 A. Oh, yes, yes.  
10 Q. That resulted in a settlement  
11 agreement with DEA. Correct?  
12 MS. McCLURE: Objection, asked  
13 and answered.  
14 THE WITNESS: Yes.  
15 BY MR. PIFKO:  
16 Q. What were the nature of the  
17 changes that you instituted after this?  
18 MS. McCLURE: Objection, form.  
19 And objection, asked and answered.  
20 THE WITNESS: We enhanced our  
21 suspicious order monitoring program at  
22 the direction of DEA. They wanted us to  
23 develop a system that would stop and hold  
24 an order and determine whether it was

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1 suspicious before shipping it.  
2 - - -  
3 (Deposition Exhibit No. Mays  
4 V2-2, Email chain, top one dated 3 Mar  
5 2013, Bates stamped ABDCMDL00378483  
6 through ABDCMDL00378488, was marked for  
7 identification.)  
8 - - -  
9 BY MR. PIFKO:  
10 Q. Handing you what's marked as Mays  
11 Volume 2, Exhibit 2.  
12 For the record, it's an email  
13 thread labeled ABDCMDL00378483 through 88.  
14 Let me know when you're done,  
15 take a moment to review that.  
16 A. (Reviewing document.)  
17 Okay.  
18 Q. Right. If you go to the second  
19 to last page here.  
20 A. Okay.  
21 Q. It's the start of -- well, it's  
22 an email -- that part of the header is on the  
23 prior page, but it's an email from you to people  
24 at Cardinal Health, McKesson and HD Smith.

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1 Do you see that?  
2 A. Yes, I do.  
3 Q. You are talking about attending  
4 an HDMA conference. Agreed?  
5 A. Agree.  
6 Q. It says, "The HDMA DMC agenda."  
7 Do you see that?  
8 A. Yes, I do.  
9 Q. What's the HDMA DMC?  
10 A. HDMA DMA is a distribution  
11 management conference. It's an annual conference  
12 that HDMA conducts.  
13 Q. The subject of this email is  
14 "'Big Four' DEA Strategy Discussion 2."  
15 Do you see that?  
16 A. Yes.  
17 Q. So you're reaching out to, at  
18 this time, people from McKesson, Cardinal Health  
19 and HD Smith to have a big four DEA strategy  
20 discussion. Correct?  
21 MS. McCLURE: Objection, form.  
22 THE WITNESS: It's what it says,  
23 yeah, yeah.  
24 BY MR. PIFKO:

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1 Q. Why were you reaching out to  
2 representatives from this company -- these  
3 companies to have a DEA strategy discussion at  
4 this time?  
5 A. I think we would typically get  
6 together sometime around those -- those  
7 conferences, because it was about the only time  
8 of the year we had face-to-face time. And we  
9 would just talk about common concerns and issues  
10 that we have and do some benchmarking, share  
11 ideas about how we can improve our programs.  
12 Q. When you say programs and  
13 concerns, you're talking about specifically in  
14 the diversion control area. Correct?  
15 A. No. It could be anything  
16 regulatory, not just diversion. It could be  
17 things about, you know, sometimes we would talk  
18 about DEA inspections and how they -- how they're  
19 handled, just to get some -- help each other out.  
20 Q. Okay. But what I'm trying to ask  
21 is, when you were talking about concerns and  
22 benchmarking and programs, you're talking about  
23 programs that relate to DEA compliance. Correct?  
24 A. I think for the most part. It's



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1 basically anything regulatory that we could talk  
2 about.  
3 Q. And these other people at  
4 McKesson, Cardinal Health and HD Smith, they all  
5 had similar responsibilities for regulatory and  
6 compliance issues like you did?  
7 MS. McCLURE: Objection to form.  
8 THE WITNESS: For the most part  
9 as I recall, yes.  
10 BY MR. PIFKO:  
11 Q. So this was -- this specific  
12 subject line says, "Strategy Discussion 2."  
13 Do you see that?  
14 A. Yeah.  
15 Q. So this was -- and as you just  
16 testified, this was something that you regularly  
17 did in connection with HDMA meetings that  
18 occurred annually?  
19 MS. McCLURE: Objection to form.  
20 THE WITNESS: Not always. I  
21 think we'd met before. Might not have  
22 been at an HDA meeting.  
23 BY MR. PIFKO:  
24 Q. But you had, with some degree of

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1 regularity, meetings with these people to discuss  
2 regulatory and compliance issues?  
3 MS. McCLURE: Objection, form.  
4 THE WITNESS: I wouldn't say  
5 regularity. We only met like that maybe  
6 two or three times.  
7 BY MR. PIFKO:  
8 Q. When was the first time you had  
9 such a meeting like that?  
10 A. I can't remember if it was before  
11 this one or after this one. We met in Chicago at  
12 the airport one time. And I think Cardinal  
13 hosted that meeting.  
14 Q. Do you have a rough idea about  
15 when that was?  
16 MS. McCLURE: Objection.  
17 THE WITNESS: No, I don't.  
18 MS. McCLURE: Asked and answered.  
19 BY MR. PIFKO:  
20 Q. But it was a meeting in Chicago  
21 at the airport?  
22 A. I believe it was, yeah.  
23 Q. Was that in connection with an  
24 HDMA conference?

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1 A. No, I don't believe it was.  
2 Q. What was your recollection that  
3 brought you all to Chicago?  
4 A. I think it had been after, you  
5 know, the companies -- you know, we had had  
6 action taken against us and I think Cardinal and  
7 I'm not sure if McKesson had at the time. And I  
8 think the idea was just to get together and see  
9 how we could do things better.  
10 Q. You think that would have been in  
11 2007 or '8?  
12 MS. McCLURE: Objection.  
13 THE WITNESS: I don't think so.  
14 I think it might have been after that. I  
15 don't know.  
16 BY MR. PIFKO:  
17 Q. What action had been taken  
18 against you that you're recalling?  
19 A. The suspension that we were  
20 previously talking about.  
21 Q. And you recall that Cardinal had  
22 had some action taken against it around the time  
23 of this meeting as well?  
24 A. Yeah.

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1 Q. What specifically was the nature  
2 of your understanding about the action taken  
3 against Cardinal at that time?  
4 A. The one -- the meeting in  
5 Chicago? That was when -- because I remember the  
6 guy was at that meeting, Michael Mone from  
7 Cardinal. And he got called during the meeting,  
8 and he had to leave. And I think it was when  
9 they had their -- one of their registrations  
10 suspended or something and he had to leave. We  
11 didn't know what it was about, but he had to just  
12 leave all of a sudden.  
13 Q. Okay. Do you have a rough idea  
14 on or around the time that was?  
15 A. No, I don't.  
16 Q. Did that -- your recollection  
17 lead to a fine against Cardinal Health?  
18 MS. McCLURE: Objection, form.  
19 THE WITNESS: I think it did  
20 after that, but I'm not -- I don't --  
21 because it seems like they had a couple.  
22 And I'm not sure if both resulted in  
23 fines.  
24 BY MR. PIFKO:



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1 Q. Okay. And then you know you had  
2 this meeting that's reflected in Exhibit 2.  
3 Correct?  
4 A. Uh-huh.  
5 Q. And then you believe there was  
6 another meeting that you recall. Correct?  
7 A. The one at HDA, the one at HDMA  
8 and then the one in Chicago. I think that was  
9 all. There may have been another one.  
10 Q. You think there was another one?  
11 MS. McCLURE: Objection to form.  
12 THE WITNESS: I may be thinking  
13 about the same one, the one at the HDA  
14 meeting, that -- it's the two that I can  
15 recall specifically, yeah.  
16 BY MR. PIFKO:  
17 Q. This meeting reflected in  
18 Exhibit 2, this was a meeting that was ultimately  
19 held. Correct?  
20 A. You know, I don't remember the  
21 meeting itself, whether we actually had it or  
22 not. I'm -- I don't want to assume, but --  
23 Q. Where was this?  
24 A. -- it looks like we planned to

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1 get together, but I just don't remember the  
2 meeting specifically.  
3 Q. Where was this meeting?  
4 A. I saw something in the email  
5 about me having tickets to Phillies spring  
6 training, so I believe that was when the  
7 conference was in Tampa.  
8 Q. Okay.  
9 A. The HDA conference was in Tampa.  
10 Q. And then you talk about in this  
11 email about scheduling a dinner with them as  
12 well?  
13 MS. McCLURE: Objection to form.  
14 THE WITNESS: Yeah. I just don't  
15 recall who went to dinner or not. I just  
16 don't remember that.  
17 BY MR. PIFKO:  
18 Q. Do you think that you had other  
19 meetings with these individuals in subsequent HDA  
20 conferences?  
21 A. I don't recall.  
22 - - -  
23 (Deposition Exhibit No. Mays  
24 V2-3, Email chain, top one dated

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1 2/6/2008, Bates stamped  
2 CAH\_MDL2804\_01364805 through  
3 CAH\_MDL2804\_01364809, was marked for  
4 identification.)  
5 - - -  
6 BY MR. PIFKO:  
7 Q. Handing you what's marked as Mays  
8 Volume 2 Exhibit 3.  
9 For the record, this is a  
10 Cardinal Health document Bates labeled  
11 CAH\_MDL2804\_01364805 to 809.  
12 Take a moment to review this and  
13 let me know when you're ready.  
14 A. Okay.  
15 (Reviewing document.)  
16 Okay.  
17 Q. Have you seen this before?  
18 A. I don't recall it.  
19 Q. You see at the top it's an email  
20 from you to Steve Reardon?  
21 A. Yes, I do.  
22 Q. Dated February 6, 2008?  
23 A. Yes, I see that.  
24 Q. It's discussing a Bloomberg story

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1 about McKesson negotiating shipping restrictions  
2 as part of a DEA probe. Agree?  
3 A. Yeah. Yes, I agree.  
4 Q. You forwarded this article to  
5 Steve Reardon at Cardinal Health. Agree?  
6 A. That's what it looks like, yes.  
7 Q. Who is Steve Reardon?  
8 A. He was my counterpart at Cardinal  
9 at the time.  
10 Q. And you thought that he would be  
11 interested to see this article about McKesson?  
12 MS. McCLURE: Objection, form.  
13 THE WITNESS: I would think so.  
14 That would be the only reason I would  
15 have sent it to him.  
16 BY MR. PIFKO:  
17 Q. You had a practice of exchanging  
18 information with Mr. Reardon about diversion  
19 control issues?  
20 MS. McCLURE: Objection, form.  
21 THE WITNESS: No.  
22 BY MR. PIFKO:  
23 Q. Why do you believe you would have  
24 shared this with him on this occasion?

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<p>1 MS. McCLURE: Objection to form.</p> <p>2 THE WITNESS: I don't recall.</p> <p>3 This was 11 years ago. I don't remember</p> <p>4 why I sent it to him.</p> <p>5 BY MR. PIFKO:</p> <p>6 Q. Did you have regular</p> <p>7 communications with Steve Reardon?</p> <p>8 MS. McCLURE: Objection, form.</p> <p>9 THE WITNESS: Well, how -- define</p> <p>10 regular. Every day, every week, every</p> <p>11 month, every year?</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. With any degree of regularity.</p> <p>14 MS. McCLURE: Objection to the</p> <p>15 definition.</p> <p>16 THE WITNESS: What's regularity?</p> <p>17 BY MR. PIFKO:</p> <p>18 Q. What's regular to you?</p> <p>19 A. Regular would be every day.</p> <p>20 Q. Did you talk to Steve Reardon</p> <p>21 with some frequency?</p> <p>22 MS. McCLURE: Objection to form.</p> <p>23 THE WITNESS: I would say</p> <p>24 occasionally, at HDA calls, HDA meetings,</p>	<p>1 record at 1:00 p.m.</p> <p>2 (Witness excused.)</p> <p>3 (Deposition concluded at</p> <p>4 approximately 1:00 p.m.)</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
Page 103	Page 105
<p>1 things like that. Not a lot of back and</p> <p>2 forth, no.</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. From time to time you would share</p> <p>5 information, though, with him about issues in the</p> <p>6 drug distribution business. Correct?</p> <p>7 A. Yes. As long as it was not</p> <p>8 proprietary information from ABC.</p> <p>9 MR. PIFKO: Go off the record for</p> <p>10 a minute.</p> <p>11 THE VIDEOGRAPHER: Going off the</p> <p>12 record, 12:56 p.m.</p> <p>13 - - -</p> <p>14 (A recess was taken from</p> <p>15 12:56 p.m. to 1:00 p.m.)</p> <p>16 - - -</p> <p>17 THE VIDEOGRAPHER: Back on record</p> <p>18 at 1:00 p.m.</p> <p>19 MR. PIFKO: All right. We don't</p> <p>20 have any further questions at this time.</p> <p>21 MS. McCLURE: No further -- no</p> <p>22 questions.</p> <p>23 THE VIDEOGRAPHER: This ends</p> <p>24 today's deposition. We're going off the</p>	<p>1</p> <p>2 CERTIFICATE</p> <p>3</p> <p>4</p> <p>5 I HEREBY CERTIFY that the witness</p> <p>6 was duly sworn by me and that the deposition is a</p> <p>7 true record of the testimony given by the</p> <p>8 witness.</p> <p>9</p> <p>10 It was requested before</p> <p>11 completion of the deposition that the witness,</p> <p>12 STEPHEN MAYS, have the opportunity to read and</p> <p>13 sign the deposition transcript.</p> <p>14</p> <p>15 ANN MARIE MITCHELL, a Federally</p> <p>16 Approved Certified Realtime</p> <p>17 Reporter, Registered Diplomate</p> <p>18 Reporter, Registered Merit Reporter and</p> <p>19 Notary Public</p> <p>20</p> <p>21 (The foregoing certification of</p> <p>22 this transcript does not apply to any</p> <p>23 reproduction of the same by any means, unless</p> <p>24 under the direct control and/or supervision of</p> <p>the certifying reporter.)</p>

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1                   INSTRUCTIONS TO WITNESS

2

3                   Please read your deposition over

4 carefully and make any necessary corrections.

5 You should state the reason in the appropriate

6 space on the errata sheet for any corrections

7 that are made.

8                   After doing so, please sign the

9 errata sheet and date it.

10                  You are signing same subject to

11 the changes you have noted on the errata sheet,

12 which will be attached to your deposition.

13                  It is imperative that you return

14 the original errata sheet to the deposing

15 attorney within thirty (30) days of receipt of

16 the deposition transcript by you. If you fail to

17 do so, the deposition transcript may be deemed to

18 be accurate and may be used in court.

19

20

21

22

23

24

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1                   - - - - -

2                   E R R A T A

3                   - - - - -

4 PAGE LINE CHANGE

5 \_\_\_\_\_

6 REASON: \_\_\_\_\_

7 \_\_\_\_\_

8 REASON: \_\_\_\_\_

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10 REASON: \_\_\_\_\_

11 \_\_\_\_\_

12 REASON: \_\_\_\_\_

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14 REASON: \_\_\_\_\_

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16 REASON: \_\_\_\_\_

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18 REASON: \_\_\_\_\_

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20 REASON: \_\_\_\_\_

21 \_\_\_\_\_

22 REASON: \_\_\_\_\_

23 \_\_\_\_\_

24 REASON: \_\_\_\_\_

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1

2                   ACKNOWLEDGMENT OF DEPONENT

3

4                   I, \_\_\_\_\_, do

5 hereby certify that I have read the foregoing

6 pages, 1 - 108, and that the same is a correct

7 transcription of the answers given by me to the

8 questions therein propounded, except for the

9 corrections or changes in form or substance, if

10 any, noted in the attached Errata Sheet.

11

12

13 \_\_\_\_\_

14 STEPHEN MAYS                   DATE

15

16

17 Subscribed and sworn

18 to before me this

19 \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

20 My commission expires: \_\_\_\_\_

21

22 \_\_\_\_\_

23 Notary Public

24